



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant Daimler Trucks North America's (Daimler) application for an exemption to allow a Daimler employee to drive commercial motor vehicles (CMV) in the United States without having a commercial driver's license (CDL) issued by one of the States. The driver, Philipp Kehm, will test-drive Daimler vehicles on U.S. roads to better understand product requirements for these vehicles in "real world" environments and verify results. He holds a valid German commercial license but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes that the process for obtaining a German commercial license is comparable to or as effective as the U.S. CDL requirements and ensures that this driver will likely achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This exemption is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] and expires [INSERT DATE TWO YEARS AFTER PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC,

between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Mrs. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325, E-mail: MCPSD@dot.gov, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. If you have questions on viewing material in the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2012 -0032 in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building,

1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Background

Since 2012, FMCSA has granted five Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); August 29, 2014 (79 FR 516910); March 27, 2015 (80 FR 16511)]. Each of these drivers held a valid German commercial license but lacked the U.S. residency required to obtain a CDL. FMCSA has concluded that the process for obtaining a German commercial license is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

III. Legal Basis

The Secretary of Transportation (the Secretary) has the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or § 31136 of title 49, United States Code, to a person(s) seeking regulatory relief (49 U.S.C. 31136(e), and 31315(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption.

IV. Daimler Application for Exemption

Daimler applied for the same CDL exemption for Philipp Kehm. Notice of the application was published on September 4, 2015 (80 FR 53614). Only one comment was filed, and the commenter neither opposed nor supported the application for

exemption for Mr. Kehm. A copy of the Daimler request is in the docket identified at the beginning of this notice. The exemption would allow Mr. Kehm to operate CMVs to support Daimler field tests to meet future vehicle safety and environmental requirements and to promote the development of technology and advancements in vehicle safety systems and emissions reductions. He will typically drive for no more than 6 hours per day for up to 10 days, and 10 percent of the test driving will be on two-lane State highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, on a biannual basis.

Section 383.21 requires CMV drivers in the United States to have a CDL issued by a State. With a few exceptions, only residents of a State can apply for a CDL. Mr. Kehm is a citizen and resident of Germany. Without the exemption, he would not be able to test-drive prototype CMVs on U.S. roads.

Mr. Kehm holds a valid German commercial license and is an experienced operator of CMVs. In the application for exemption, Daimler also submitted documentation showing his safe German driving record.

V. Method to Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German-issued commercial license ensure that drivers meet or exceed the same level of safety as if these drivers had obtained a U.S. CDL. Mr. Kehm is familiar with the operation of CMVs worldwide and will be accompanied at all times by a driver who holds a U.S. CDL and is familiar with the routes to be traveled. FMCSA has determined that the process for obtaining a commercial license in Germany is comparable to that for obtaining a CDL issued by one

of the States and adequately assesses the driver's ability to operate CMVs safely in the United States.

VI. FMCSA Decision

Based upon the merits of this application, including Mr. Kehm's extensive driving experience and safety record, and the fact that he has successfully completed the requisite training and testing to obtain a German commercial license, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

VII. Terms and Conditions for the Exemption

FMCSA grants Daimler and Mr. Philipp Kehm an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Kehm to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350-399); (2) the driver must be in possession of the exemption document and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Daimler; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if (1) Mr. Kehm fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: December 10, 2015.

T.F. Scott Darling, III,
Acting Administrator.

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